

## **TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION**

### **Economic Impact Statement**

LSA Document #14-336

#### **IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Business**

The Indiana Department of Transportation (INDOT) proposes to make adjustments to the specific service sign program, also known as the logo program, to use a broader definition of freeway, extend the grandfathering period for nonconforming signs, require participating businesses to be free of delinquent sales tax debts, and ensure that participating food businesses serve minors.

Overall it is anticipated that the proposed rule will increase the number of small businesses that are eligible to participate in the specific service sign program. In general, approximately 95% of the businesses participating in the program are either an independent or franchise type small business.

#### **Impact on Small Businesses**

##### **1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule:**

It is estimated that between 95 and 109 small businesses will be affected by implementation of this proposed rule. This number is based on the annual reports provided by the specific service sign program operator and the number of interchanges that fall within the broader definition of a freeway.

However, because the advertising charges for participation in the specific service sign program are uniformly applied to a specific service sign category, because participation in the program is voluntary, and because businesses are unlikely to participate in the program unless they benefit from it, INDOT anticipates that the proposed rule will not have an adverse effect on the small businesses that are newly eligible for the specific service sign program.

Regarding the anticipated benefits to small businesses that participate in the expanded program, the cost of participation is roughly \$10 a day. At the same time, the state highway system segments that would be made available for specific service signs have an annualized average daily traffic of about 12,000 vehicles per day. Therefore it would take just a few motorists to stop at the business each day based on the signs for the small business to recoup its advertising costs under the program.

With respect to the existing small businesses that are affected by the proposed requirement that participating businesses be free of delinquent sales tax debts, INDOT's position is that since the sales tax is paid directly by consumers, participating businesses should not be pocketing these funds. All of the small business affected fall within the tourism and hospitality industry sector.

##### **2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule:**

The proposed rule imposes no new reporting or record keeping costs on any business, large or small. However, businesses that use generally accepted accounting principles will need to include the fees for specific service signs in recording the advertising expenses for the business on balance sheets, income statements, and other reports. Based on data from the May 2012 Occupational Employment Survey by the U.S. Bureau of Labor Statistics, it is estimated that the record keeping costs of participating in the specific service sign program would cost approximately \$100 for each business. This figure assumes that the amount of time spent on record keeping would be about four hours, that the median hourly rate for a bookkeeper or account clerk in Indiana is \$15.60, and that the labor additive rate is 60%.

##### **3. Estimate of the total annual economic impact that compliance will have on small businesses subject to the rule:**

The adoption of this rule regarding the specific service sign program would directly affect about 40 small businesses. The direct costs of participating in the specific service sign program would be approximately \$1,900 for a tourist attraction and \$3,800 for a gas, food, or lodging business. However, as noted above in Section 1, the approximate cost of \$10 per day for a gas, food, or lodging business and \$5 per day for an attraction can be recovered if the signs are seen by just a few drivers who would not have otherwise stopped at their facility.

There are approximately 62 small businesses that are anticipated to be affected by the proposed requirement to be free of delinquent sales tax debts, although there will be no additional charges assessed by INDOT or the specific service sign program operator as part of the requirement. Once the delinquent sales tax debts are paid it is not expected to take more than an hour to notify the specific service sign program operator of the change in status, which would represent a labor cost of about \$25. The record keeping costs of the proposed rule would amount to approximately \$100 annually for both existing and new small businesses.

The total estimated annual economic impact of the proposed rule is \$151,200 as summarized below. However, participation in the specific service sign program is voluntary, and it is expected that a business will not participate unless the revenue generated from advertising on a specific service sign exceeds the cost.

	<i>Amount</i>	<i>Est. Amount from Small Businesses</i>
• Participation fees from newly eligible businesses:	\$140,600	\$136,800
• Proof of payment from businesses with delinquent sales tax debts:	\$6,500	\$6,200
• Record keeping costs for newly eligible businesses:	\$4,100	\$4,000
<b>Total:</b>	<b>\$151,200</b>	<b>\$147,000</b>

**4. Statement justifying any requirement or cost that is imposed by the rule and not expressly required by law. The statement must reference any data, studies, or analyses relied upon by the agency in determining imposition of the requirement or cost is necessary.**

The costs imposed by the proposed rule are expressly required under IC 9-21-4-5(b), which states that INDOT may authorize the posting of business signs on specific information panels if all of the costs of manufacturing, installation, and maintenance are paid by the business.

The proposed rule regarding the specific service sign program is justified because the program would be expanded to allow additional businesses to participate in the program and the updated eligibility criteria are in the interest of the motoring public. The cost to businesses to participate in the program is also justified because the Indiana Code requires the specific service sign program to be self-funded.

INDOT did not rely on any data, studies, or analyses to determine that the imposition of the requirements and costs in the proposed rule are necessary.

**5. Regulatory flexibility analysis to consider less intrusive or costly methods of achieving the same purpose:**

A. Less Stringent Compliance or Reporting Requirements: With respect to compliance, the proposed rule could be less restrictive to small businesses. However, INDOT believes the compliance restrictions in the proposed rule are necessary to maintain the utility of the specific service sign program for Indiana motorists. For example, INDOT could allow bars to participate as a food business, but doing so would reduce the value of the specific service signs to motorists who expect the facilities to serve families or other customers under the age of 21.

With respect to reporting requirements, the proposed rule does add a requirement that participating businesses be free of delinquent sales tax debts to the State. The contractor that administers the specific service sign program for INDOT will run a delinquent sales tax debt check at the time a business applies for signs or renews its lease agreement using the tax delinquent businesses look-up webpage on the Indiana Department of Revenue's website <http://www.in.gov/dor/4335.htm>. Businesses that pass the delinquent sales tax debts check will not need to do anything, while businesses that fail the delinquent sales tax debt check must pay these debts in order to participate in or continue participation in the specific service sign program. It is not expected to take more than one hour to notify the specific service sign program operator that the business has been removed from the listing of tax delinquent businesses.

B. Establishment of less stringent schedules or deadlines: There are no specific schedules or deadlines for businesses, large or small, under the proposed rule. A business that fails the delinquent sales tax debts check will have a reasonable amount of time to get its registered retail merchant certificate reinstated if there is no other eligible business on a waiting list at that interchange.

C. Consolidation or simplification of compliance or reporting requirements: There are no reporting requirements for businesses under the proposed rules. The requirement that participating food businesses serve customers of all ages reflects an existing INDOT position and no small businesses are affected.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule: The adjustments to the eligibility criteria in the proposed rule are performance standards.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule: Under IC 9-21-4-5(b), all businesses are required to pay for the cost of advertising within the highway right-of-way. The statute does not authorize an exemption for small businesses.